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9 Angelo Ferrara and N.F.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation;

Plaintiffs,

v.

LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF THE
LUNADA BAY BOYS, including but
not limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON aka
JALIAN JOHNSTON, MICHAEL
RAE PAPAYANS, ANGELO
FERRARA, FRANK FERRARA,
CHARLIE FERRARA, and N.F.; CITY
OF PALOS VERDES ESTATES;
CHIEF OF POLICE JEFF KEPLEY, in
his representative capacity; and DOES 1
– 10,

Defendants.

Case No. 2:16-cv-2129-SJO (RAOx)
The Hon. S. James Otero, Ctrm. 10C

**DEFENDANT ANGELO FERRARA'S
AND N.F.'S OPPOSITION TO
PLAINTIFFS' CLASS
CERTIFICATION MOTION;
DECLARATION OF MARK C.
FIELD**

Date: February 21, 2017

Time: 10 a.m.

Ctrm: 10C
1st Street Courthouse

Action Commenced: 3/29/2016
Trial Date: 11/7/2017

Defendants Angelo Ferrara and N.F. hereby submit their Opposition to
Plaintiffs' Motion For Class Certification. Defendants Angelo Ferrara and N.F. also
join in the Oppositions and other supporting papers filed by the other Individual
Defendants and the City of Palos Verdes Estates/Police Chief Kepley. *See Vazquez*

1 v. *Central States Joint Bd.*, 547 F.Supp.2d 833, 867. (N.D.Ill. 2008) (“It is
2 permissible for a party to adopt the motion of another party when the facts between
3 the parties are essentially the same and the adoption would promote judicial
4 efficiency.”).

5 In the interests of judicial economy, Defendants Angelo Ferrara and N.F. will
6 defer to and hereby join in the extensive legal briefing which is being done by other
7 Defendants.

8 The only additional perspective that Defendants Angelo Ferrara and N.F.
9 wish to express is of a more personal and pragmatic nature.

10 Plaintiffs come into the Court and request equitable relief. This is a Court of
11 equity. But what Plaintiffs are requesting is wildly overbroad and not fair and
12 equitable.

13 In essence, those who were allegedly bullied have now become the bullies.

14 N.F. is 17 years old. N.F. is a member of what is commonly referred to as
15 Gen Y. As a member of Gen Y, he will grow up with certain difficulties, such as a
16 pro rata share of an existing 20 trillion debt which continues to climb, college tuition
17 which is out of control, and the prospect of competing against robots for available
18 jobs. Fair enough. What is not fair or equitable is that Plaintiffs seek to impose
19 upon 17 year old N.F. a monetary judgment for \$50 million dollars, for allegedly
20 wrongful behavior dating back to 1970. *See King Dec.*, ¶¶ 6, 19.

21 It seems particularly harsh and bullying to attempt to impose on a 17 year old
22 boy a \$50 million liability for damages which allegedly started during the middle of
23 the first term of the Nixon administration, especially in light of the fact that it would
24 be another 28 years until he was conceived.

25 N.F. has had his struggles and has made mistakes, for which he has paid a
26 steep price. Those struggles and mistakes have literally no bearing whatsoever on
27 any issue in this case, but have been repeatedly referred to in pleadings and in

1 deposition questioning for no legitimate purpose. For instance, the Declaration of
2 Mark Slatten submitted by Plaintiffs refers at Paragraph 9(f) to actions taken at a
3 liquor store. Is there a liquor store at the beach? There was a structure (since
4 demolished) which has been variously described as a patio or a rock fort. No liquor
5 store. Plaintiffs are simply throwing mud for the purpose of demeaning N.F.
6 regardless of any rational connection to any legitimate issue in this case.

7 A 17 year old boy who has made some mistakes is entitled to a chance to
8 rehabilitate himself. Instead, he is being dragged into this lawsuit for no reason
9 whatsoever, and faced with the threat of a \$50 million judgment for activities dating
10 back to the time when the five most popular TV shows (according to Wikipedia)
11 were Marcus Welby, M.D., The Flip Wilson Show, Here's Lucy, Ironside, and
12 Gunsmoke.

13 On the other end of the spectrum is N.F.'s father – Angelo Ferrara. Angelo is
14 59 years old. He has surfed off and on at Lunada Bay for approximately five
15 decades. There is not a single incident of wrongdoing by Angelo over the course of
16 those five decades that Plaintiffs can, or even have attempted to, attribute to Angelo.
17 No eyewitness of any wrongdoing by Angelo. No crime report against Angelo. No
18 arrest of Angelo. No civil lawsuit against Angelo.

19 Plaintiffs' counsel has directly threatened Angelo Ferrara that he will be
20 jointly and severally liable for a multi-million judgment and that as a result he will
21 lose his home. *See* Declaration of Mark C. Fields attached hereto ("Fields Dec."),
22 ¶2. This same threat has been directed at all the Individual Defendants.

23 Angelo Ferrara has done nothing, and Plaintiffs can point to nothing, which
24 justifies the threat that after five decades of surfing Lunada Bay without any
25 incident attributable to him that he will suffer a \$50 million judgment and lose his
26 home. These types of threats are easy for Plaintiffs to make on paper pending a trial
27 in November, but they have real life consequences. Every day between now and

1 November is a day in which Angelo and his wife wakes up and wonders if they will
2 be financially destroyed and lose their home, regardless of his surfing at Lunada Bay
3 since the mid-1960s without wrongdoing by Angelo.

4 Summarizing, for all the reasons extensively briefed in the other Oppositions
5 by other Defendants, there are no legal grounds to grant class certification. The
6 intent of this Opposition is to highlight that this is not an academic issue, but has
7 devastating real life consequences every day until Plaintiffs' overbroad and bullying
8 approach is rebuffed and the class certification motion denied, especially with
9 respect to class certification for monetary relief.

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11 Dated: January 13, 2017

LAW OFFICES OF MARK C. FIELDS, APC

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13 By

14 Mark C. Fields
15 Attorneys for Defendants
16 Angelo Ferrara and N.F.
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DECLARATION OF MARK C. FIELDS

I, Mark C. Fields, declare:

3 1. The facts set forth in this declaration are personally known to me and I
4 have first-hand knowledge of them. If called as a witness to testify, I could and
5 would testify competently to the same. I am an attorney admitted to practice before
6 all of the Courts of the State of California, and a partner of The Law Offices of
7 Mark C. Fields, APC, attorneys of record for Defendants Angelo Ferrara and N.F. I
8 submit this Declaration in support of their Opposition to Plaintiffs' Motion For Class
9 Certification.

10 2. I have attended all depositions taken in this lawsuit. During breaks in
11 some of those depositions, Mr. Otten has emphasized that the Individual Defendants
12 in this lawsuit will suffer millions of dollars of judgments against them, for which
13 they will be jointly and severally liable. He specifically emphasized that the
14 Individual Defendants will all lose their homes as a result of the monetary judgment
15 he states they will suffer. In particular, Mr. Otten made those gratuitously offensive
16 and insulting comments during a break in the deposition of Angelo Ferrara.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct. Executed this 13th day of January,
19 2017, at Los Angeles, California.

a. 

Mark C Fields